



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background on Public Records Disclosure**

Article I, s. 24(a), Florida Constitution, sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature may, however, provide by general law for the exemption of records from the requirements of Article I, s. 24(a), Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.

Public policy regarding access to government records is also addressed in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect, examine, and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act of 1995 provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following public purposes:

- 1) Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- 2) Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or,
- 3) Protecting trade or business secrets.

##### **Present Situation**

The Board of Trustees of the Internal Improvement Trust Fund (Board) will determine which lands titled in the Board may be surplus. The sale price of the lands determined to be surplus is determined by an appraisal of the property, or when the estimated value of the land is less than \$100,000, a comparable sales analysis or broker's opinion of value, and the price paid by the state to originally acquire the lands. Currently, the Department of Environmental Protection (DEP) must disclose appraisal information on state-owned lands that are being disposed of when requested to do so pursuant to a public records request under section 119.071(1), F.S. The DEP ability to maximize the potential sale price of such land appears to be hampered by this disclosure of land value information.

## **Effect of Proposed Changes**

The bill makes a written valuation of land determined to be surplus and related documents used to form the valuation or which discuss the valuation confidential and exempt from section 119.07(1), F.S., and section 24(a), Article I of the State Constitution, until 2 weeks before the associated agreement regarding surplus land purchase, exchange, or disposal is first considered by the Board. The Board may, notwithstanding this exemption, disclose appraisals, valuations, or valuation information about surplus land during negotiations for the sale or exchange of the land based on the following:

- To facilitate closure of the marketing or bidding process associated with the sale or exchange of land;
- If the passage of time has made the conclusions of value invalid; or
- When negotiations or marketing efforts concerning the land are concluded.

The bill provides that the confidentiality of land value information is subject to the Open Government Sunset Review Act of 1955 in accordance with section 119.15, F.S., and will stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill makes the following findings of public necessity by the Legislature:

- The temporary exemption from the public records law helps ensure the maximum return to the state from the disposition of state lands.
- Earlier public access to land valuation information would impede development of agreements that maximize such return by providing persons interested in buying or trading for surplus land an unfair advantage during negotiation or bidding processes to sell, exchange, or dispose of the land.
- The confidentiality and exemption of the information regarding the valuation of land by this act will assist to ensure that real estate transactions are conducted at "arms length."

### C. SECTION DIRECTORY:

Section 1. Amends s. 253.034(6)(g), F.S., relating to disclosure of land value information.

Section 2. Provides public necessity information relating to disclosure of land value information.

Section 3. Provides the act will take effect on July 1, 2004.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: The state should receive an increase in revenue from having a stronger negotiating position in the disposal of state lands that are no longer needed.
2. Expenditures: None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown. The private purchaser of state-owned land may pay more for state lands by not having access to appraisal information.

D. FISCAL COMMENTS: None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect municipal or county government.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DEP Comments: The provisions of this bill allowing the exemption of valuation information for disposals and exchanges of state lands from public record requests makes good business sense and parallels the similar provisions already in place regarding valuation information in statute for state land acquisition.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

None.